

AMENDED IN SENATE JUNE 30, 2009

AMENDED IN ASSEMBLY MAY 14, 2009

AMENDED IN ASSEMBLY APRIL 20, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## ASSEMBLY BILL

**No. 720**

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**Introduced by Assembly Member Caballero**

February 26, 2009

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An act to amend ~~Section~~ *Sections 65400, 65582, and 65583.1* of the Government Code, relating to land use.

### LEGISLATIVE COUNSEL'S DIGEST

AB 720, as amended, Caballero. Land use: housing element.

The Planning and Zoning Law requires each city, county, and city and county to prepare and adopt a general plan that contains certain mandatory elements, including a housing element that analyzes existing and projected housing needs and includes a statement of goals, quantified objectives, policies, financial resources, and scheduled programs for the maintenance, preservation, improvement, and development of housing. The housing element is required to identify the existing and projected housing needs of all economic segments of the community. The Department of Housing and Community Development is authorized to allow a city, county, or city and county to substitute the provision of units for up to 25% of the community's obligation to identify adequate sites for any income category in its housing element, as specified, when the community includes in its housing element a program committing the local government to provide units in that income category within the city, county, or city and county that will be made available through the provision of committed

assistance during the planning period covered by the housing element to low- and very low income households at affordable housing costs or affordable rents, as defined. Units that are to be substantially rehabilitated with committed assistance from the city, county, or city and county and constitute a net increase in the community's housing stock may be included in this housing element program, if the units meet certain criteria. Existing law defines various terms for use of these provisions.

This bill would authorize a city, county, or city and county to include weatherization and energy efficiency improvements as part of its efforts to substantially rehabilitate a unit, and modify the definition of "committed assistance" for purposes of specified provisions. *The bill would also define "planning period" and "projection period" for purposes of specified provisions, if SB 575 is not enacted.*

~~Existing law states that if a local government opts to provide committed assistance, as defined, it must make a written report to the legislative body and the department on July 1 of the 3rd year of the housing element planning period. This report must identify the specific units to which committed assistance has been provided. If, by the 3rd year of the planning period, the local government has not provided committed assistance to all units identified in its housing element program, it must adopt an amended housing element by July 1 of the 4th year of the planning period.~~

~~This bill would extend the date by which a local government providing committed assistance must report to the legislative body and the department to July 1 of the 6th year of the planning period. Likewise, if a local government fails to provide committed assistance for all units identified in its housing element program by the 6th year of the planning period, it has until July 1 of the 7th year to adopt an amended housing element.~~

*The Planning and Zoning Law requires a planning agency, after a legislative body has adopted all or part of a general plan, to provide an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development on the status of the general plan and progress in meeting the community's share of regional housing needs.*

*This bill would authorize the planning agency to include in its annual report the number of units that have been substantially rehabilitated, converted from nonaffordable to affordable by acquisition, and preserved, as defined.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 65400 of the Government Code is  
2     amended to read:

3     65400. (a) After the legislative body has adopted all or part  
4     of a general plan, the planning agency shall do both of the  
5     following:

6         (1) Investigate and make recommendations to the legislative  
7         body regarding reasonable and practical means for implementing  
8         the general plan or element of the general plan, so that it will serve  
9         as an effective guide for orderly growth and development,  
10        preservation and conservation of open-space land and natural  
11        resources, and the efficient expenditure of public funds relating to  
12        the subjects addressed in the general plan.

13        (2) Provide by April 1 of each year an annual report to the  
14        legislative body, the Office of Planning and Research, and the  
15        Department of Housing and Community Development that includes  
16        all of the following:

17            (A) The status of the plan and progress in its implementation.

18            (B) The progress in meeting its share of regional housing needs  
19        determined pursuant to Section 65584 and local efforts to remove  
20        governmental constraints to the maintenance, improvement, and  
21        development of housing pursuant to paragraph (3) of subdivision  
22        (c) of Section 65583.

23        The housing element portion of the annual report, as required  
24        by this paragraph, shall be prepared through the use of forms and  
25        definitions adopted by the Department of Housing and Community  
26        Development pursuant to the rulemaking provisions of the  
27        Administrative Procedure Act (Chapter 3.5 (commencing with  
28        Section 11340) of Part 1 of Division 3 of Title 2). Prior to and after  
29        adoption of the forms, the housing element portion of the annual  
30        report shall include a section that describes the actions taken by  
31        the local government towards completion of the programs and  
32        status of the local government's compliance with the deadlines in  
33        its housing element. That report shall be considered at an annual  
34        public meeting before the legislative body where members of the

1 public shall be allowed to provide oral testimony and written  
2 comments.

3 *The report may include the number of units that have been*  
4 *substantially rehabilitated, converted from nonaffordable to*  
5 *affordable by acquisition, and preserved consistent with the*  
6 *standards set forth in paragraph (2) of subdivision (c) of Section*  
7 *65583.1. The report shall document how the units meet the*  
8 *standards set forth in that subdivision.*

9 (C) The degree to which its approved general plan complies  
10 with the guidelines developed and adopted pursuant to Section  
11 65040.2 and the date of the last revision to the general plan.

12 (b) If a court finds, upon a motion to that effect, that a city,  
13 county, or city and county failed to submit, within 60 days of the  
14 deadline established in this section, the housing element portion  
15 of the report required pursuant to subparagraph (B) of paragraph  
16 (2) of subdivision (a) that substantially complies with the  
17 requirements of this section, the court shall issue an order or  
18 judgment compelling compliance with this section within 60 days.  
19 If the city, county, or city and county fails to comply with the  
20 court's order within 60 days, the plaintiff or petitioner may move  
21 for sanctions, and the court may, upon that motion, grant  
22 appropriate sanctions. The court shall retain jurisdiction to ensure  
23 that its order or judgment is carried out. If the court determines  
24 that its order or judgment is not carried out within 60 days, the  
25 court may issue further orders as provided by law to ensure that  
26 the purposes and policies of this section are fulfilled. This  
27 subdivision applies to proceedings initiated on or after the first  
28 day of October following the adoption of forms and definitions by  
29 the Department of Housing and Community Development pursuant  
30 to paragraph (2) of subdivision (a), but no sooner than six months  
31 following that adoption.

32 *SEC. 2. Section 65582 of the Government Code is amended to*  
33 *read:*

34 65582. As used in this article, the following definitions apply:

35 (a) "Community," "locality," "local government," or  
36 "jurisdiction" means a city, city and county, or county.

37 (b) "Council of governments" means a single or multicounty  
38 council created by a joint powers agreement pursuant to Chapter  
39 5 (commencing with Section 6500) of Division 1 of Title 1.

1 (c) “Department” means the Department of Housing and  
2 Community Development.

3 (d) “Emergency shelter” has the same meaning as defined in  
4 subdivision (e) of Section 50801 of the Health and Safety Code.

5 (e) “Housing element” or “element” means the housing element  
6 of the community’s general plan, as required pursuant to this article  
7 and subdivision (c) of Section 65302.

8 (f) “Supportive housing” has the same meaning as defined in  
9 subdivision (b) of Section 50675.14 of the Health and Safety Code.

10 (g) “Transitional housing” has the same meaning as defined in  
11 subdivision (h) of Section 50675.2 of the Health and Safety Code.

12 (h) “*Planning period*” means the time period between the due  
13 date for one housing element and the due date for the next housing  
14 element.

15 (i) “*Projection period*” means the time period for which the  
16 regional housing need is calculated.

17 SEC. 3. Section 65583.1 of the Government Code is amended  
18 to read:

19 65583.1. (a) *For purposes of this section, a city, county, or*  
20 *city and county may include weatherization and energy efficiency*  
21 *improvements as part of its efforts to substantially rehabilitate a*  
22 *unit. This may include energy efficiency measures that encompass*  
23 *the building envelope, its heating and cooling systems, and its*  
24 *electrical system.*

25 ~~(a)~~  
26 (b) The Department of Housing and Community Development,  
27 in evaluating a proposed or adopted housing element for substantial  
28 compliance with this article, may allow a city or county to identify  
29 adequate sites, as required pursuant to Section 65583, by a variety  
30 of methods, including, but not limited to, redesignation of property  
31 to a more intense land use category and increasing the density  
32 allowed within one or more categories. The department may also  
33 allow a city or county to identify sites for second units based on  
34 the number of second units developed in the prior housing element  
35 planning period whether or not the units are permitted by right,  
36 the need for these units in the community, the resources or  
37 incentives available for their development, and any other relevant  
38 factors, as determined by the department. Nothing in this section  
39 reduces the responsibility of a city or county to identify, by income

1 category, the total number of sites for residential development as  
2 required by this article.

3 ~~(b)~~

4 (c) Sites that contain permanent housing units located on a  
5 military base undergoing closure or conversion as a result of action  
6 pursuant to the Defense Authorization Amendments and Base  
7 Closure and Realignment Act (Public Law 100-526), the Defense  
8 Base Closure and Realignment Act of 1990 (Public Law 101-510),  
9 or any subsequent act requiring the closure or conversion of a  
10 military base may be identified as an adequate site if the housing  
11 element demonstrates that the housing units will be available for  
12 occupancy by households within the planning period of the  
13 element. No sites containing housing units scheduled or planned  
14 for demolition or conversion to nonresidential uses shall qualify  
15 as an adequate site.

16 Any city, city and county, or county using this subdivision shall  
17 address the progress in meeting this section in the reports provided  
18 pursuant to paragraph (1) of subdivision (b) of Section 65400.

19 ~~(e)~~

20 (d) (1) The Department of Housing and Community  
21 Development may allow a city or county to substitute the provision  
22 of units for up to 25 percent of the community's obligation to  
23 identify adequate sites for any income category in its housing  
24 element pursuant to paragraph (1) of subdivision (c) of Section  
25 65583 where the community includes in its housing element a  
26 program committing the local government to provide units in that  
27 income category within the city or county that will be made  
28 available through the provision of committed assistance during  
29 the planning period covered by the element to low- and very low  
30 income households at affordable housing costs or affordable rents,  
31 as defined in Sections 50052.5 and 50053 of the Health and Safety  
32 Code, and which meet the requirements of paragraph (2). Except  
33 as otherwise provided in this subdivision, the community may  
34 substitute one dwelling unit for one dwelling unit site in the  
35 applicable income category. The program shall do all of the  
36 following:

37 (A) Identify the specific, existing sources of committed  
38 assistance and dedicate a specific portion of the funds from those  
39 sources to the provision of housing pursuant to this subdivision.

1 (B) Indicate the number of units that will be provided to both  
2 low- and very low income households and demonstrate that the  
3 amount of dedicated funds is sufficient to develop the units at  
4 affordable housing costs or affordable rents.

5 (C) Demonstrate that the units meet the requirements of  
6 paragraph (2).

7 (2) Only units that comply with subparagraph (A), (B), or (C)  
8 qualify for inclusion in the housing element program described in  
9 paragraph (1), as follows:

10 (A) Units that are to be substantially rehabilitated with  
11 committed assistance from the city or county and constitute a net  
12 increase in the community's stock of housing affordable to low-  
13 and very low income households. For purposes of this  
14 subparagraph, a unit is not eligible to be "substantially  
15 rehabilitated" unless all of the following requirements are met:

16 (i) At the time the unit is identified for substantial rehabilitation,  
17 (I) the local government has determined that the unit is at imminent  
18 risk of loss to the housing stock, (II) the local government has  
19 committed to provide relocation assistance pursuant to Chapter 16  
20 (commencing with Section 7260) of Division 7 of Title 1 to any  
21 occupants temporarily or permanently displaced by the  
22 rehabilitation or code enforcement activity, or the relocation is  
23 otherwise provided prior to displacement either as a condition of  
24 receivership, or provided by the property owner or the local  
25 government pursuant to Article 2.5 (commencing with Section  
26 17975) of Chapter 5 of Part 1.5 of Division 13 of the Health and  
27 Safety Code, or as otherwise provided by local ordinance; provided  
28 the assistance includes not less than the equivalent of four months'  
29 rent and moving expenses and comparable replacement housing  
30 consistent with the moving expenses and comparable replacement  
31 housing required pursuant to Section 7260, (III) the local  
32 government requires that any displaced occupants will have the  
33 right to reoccupy the rehabilitated units, and (IV) the unit has been  
34 found by the local government or a court to be unfit for human  
35 habitation due to the existence of at least four violations of the  
36 conditions listed in subdivisions (a) to (g), inclusive, of Section  
37 17995.3 of the Health and Safety Code.

38 (ii) The rehabilitated unit will have long-term affordability  
39 covenants and restrictions that require the unit to be available to,  
40 and occupied by, persons or families of low- or very low income

1 at affordable housing costs for at least 20 years or the time period  
2 required by any applicable federal or state law or regulation.

3 (iii) Prior to initial occupancy after rehabilitation, the local code  
4 enforcement agency shall issue a certificate of occupancy indicating  
5 compliance with all applicable state and local building code and  
6 health and safety code requirements.

7 (B) Units that are located in a multifamily rental housing  
8 complex of four or more units, are converted with committed  
9 assistance from the city or county from nonaffordable to affordable  
10 by acquisition of the unit or the purchase of affordability covenants  
11 and restrictions for the unit, are not acquired by eminent domain,  
12 and constitute a net increase in the community's stock of housing  
13 affordable to low- and very low income households. For purposes  
14 of this subparagraph, a unit is not converted by acquisition or the  
15 purchase of affordability covenants unless all of the following  
16 occur:

17 (i) The unit is made available at a cost affordable to low- or  
18 very low income households.

19 (ii) At the time the unit is identified for acquisition, the unit is  
20 not available at an affordable housing cost to either of the  
21 following:

22 (I) Low-income households, if the unit will be made affordable  
23 to low-income households.

24 (II) Very low income households, if the unit will be made  
25 affordable to very low income households.

26 (iii) At the time the unit is identified for acquisition the unit is  
27 not occupied by low- or very low income households or if the  
28 acquired unit is occupied, the local government has committed to  
29 provide relocation assistance prior to displacement, if any, pursuant  
30 to Chapter 16 (commencing with Section 7260) of Division 7 of  
31 Title 1 to any occupants displaced by the conversion, or the  
32 relocation is otherwise provided prior to displacement; provided  
33 the assistance includes not less than the equivalent of four months'  
34 rent and moving expenses and comparable replacement housing  
35 consistent with the moving expenses and comparable replacement  
36 housing required pursuant to Section 7260.

37 (iv) The unit is in decent, safe, and sanitary condition at the  
38 time of occupancy.



1 (v) The unit has long-term affordability covenants and  
2 restrictions that require the unit to be affordable to persons of low-  
3 or very low income for not less than 55 years.

4 (C) Units that will be preserved at affordable housing costs to  
5 persons or families of low- or very low incomes with committed  
6 assistance from the city or county by acquisition of the unit or the  
7 purchase of affordability covenants for the unit. For purposes of  
8 this subparagraph, a unit shall not be deemed preserved unless all  
9 of the following occur:

10 (i) The unit has long-term affordability covenants and  
11 restrictions that require the unit to be affordable to and reserved  
12 for occupancy by persons of the same or lower income group as  
13 the current occupants for a period of at least 40 years.

14 (ii) The unit is within an “assisted housing development,” as  
15 defined in paragraph (3) of subdivision (a) of Section 65863.10.

16 (iii) The city or county finds, after a public hearing, that the unit  
17 is eligible, and is reasonably expected, to change from housing  
18 affordable to low- and very low income households to any other  
19 use during the next five years due to termination of subsidy  
20 contracts, mortgage prepayment, or expiration of restrictions on  
21 use.

22 (iv) The unit is in decent, safe, and sanitary condition at the  
23 time of occupancy.

24 (v) At the time the unit is identified for preservation it is  
25 available at affordable cost to persons or families of low- or very  
26 low income.

27 (3) This subdivision does not apply to any city or county that,  
28 during the current or immediately prior planning period, as defined  
29 by Section 65588, has not met any of its share of the regional need  
30 for affordable housing, as defined in Section 65584, for low- and  
31 very low income households. A city or county shall document for  
32 any housing unit that a building permit has been issued and all  
33 development and permit fees have been paid or the unit is eligible  
34 to be lawfully occupied.

35 (4) For purposes of this subdivision, “committed assistance”  
36 means that the city or county enters into a legally enforceable  
37 agreement during the ~~first two years of the housing element~~  
38 ~~planning period~~ *period from the beginning of the projection period*  
39 *until the end of the second year of the planning period* that  
40 obligates sufficient available funds to provide the assistance

1 necessary to make the identified units affordable and that requires  
2 that the units be made available for occupancy within two years  
3 of the execution of the agreement. “Committed assistance” does  
4 not include tenant-based rental assistance.

5 (5) For purposes of this subdivision, “net increase” includes  
6 only housing units provided committed assistance pursuant to  
7 subparagraph (A) or (B) of paragraph (2) in the current planning  
8 period, as defined in Section 65588, that were not provided  
9 committed assistance in the immediately prior planning period.

10 (6) For purposes of this subdivision, “the time the unit is  
11 identified” means the earliest time when any city or county agent,  
12 acting on behalf of a public entity, has proposed in writing or has  
13 proposed orally or in writing to the property owner, that the unit  
14 be considered for substantial rehabilitation, acquisition, or  
15 preservation.

16 (7) On July 1 of the third year of the planning period, as defined  
17 by Section 65588, in the report required pursuant to Section 65400,  
18 each city or county that has included in its housing element a  
19 program to provide units pursuant to subparagraph (A), (B), or (C)  
20 of paragraph (2) shall report in writing to the legislative body, and  
21 to the department within 30 days of making its report to the  
22 legislative body, on its progress in providing units pursuant to this  
23 subdivision. The report shall identify the specific units for which  
24 committed assistance has been provided or which have been made  
25 available to low- and very low income households, and it shall  
26 adequately document how each unit complies with this subdivision.  
27 If, by July 1 of the third year of the planning period, the city or  
28 county has not entered into an enforceable agreement of committed  
29 assistance for all units specified in the programs adopted pursuant  
30 to subparagraph (A), (B), or (C) of paragraph (2), the city or county  
31 shall, not later than July 1 of the fourth year of the planning period,  
32 adopt an amended housing element in accordance with Section  
33 65585, identifying additional adequate sites pursuant to paragraph  
34 (1) of subdivision (c) of Section 65583 sufficient to accommodate  
35 the number of units for which committed assistance was not  
36 provided. If a city or county does not amend its housing element  
37 to identify adequate sites to address any shortfall, or fails to  
38 complete the rehabilitation, acquisition, purchase of affordability  
39 covenants, or the preservation of any housing unit within two years  
40 after committed assistance was provided to that unit, it shall be

1 prohibited from identifying units pursuant to subparagraph (A),  
2 (B), or (C) of paragraph (2) in the housing element that it adopts  
3 for the next planning period, as defined in Section 65588, above  
4 the number of units actually provided or preserved due to  
5 committed assistance.

6 *SEC. 4. Section 2 of this bill shall become operative only if*  
7 *Senate Bill 575 is not enacted.*

8 ~~SECTION 1. Section 65583.1 of the Government Code is~~  
9 ~~amended to read:~~

10 ~~65583.1. (a) For purposes of this section, a city, county, or~~  
11 ~~city and county may include weatherization and energy efficiency~~  
12 ~~improvements as part of its efforts to substantially rehabilitate a~~  
13 ~~unit. This may include energy efficiency measures that encompass~~  
14 ~~the building envelope, its heating and cooling systems, and its~~  
15 ~~electrical system.~~

16 ~~(b) The Department of Housing and Community Development,~~  
17 ~~in evaluating a proposed or adopted housing element for substantial~~  
18 ~~compliance with this article, may allow a city or county to identify~~  
19 ~~adequate sites, as required pursuant to Section 65583, by a variety~~  
20 ~~of methods, including, but not limited to, redesignation of property~~  
21 ~~to a more intense land use category and increasing the density~~  
22 ~~allowed within one or more categories. The department may also~~  
23 ~~allow a city or county to identify sites for second units based on~~  
24 ~~the number of second units developed in the prior housing element~~  
25 ~~planning period whether or not the units are permitted by right,~~  
26 ~~the need for these units in the community, the resources or~~  
27 ~~incentives available for their development, and any other relevant~~  
28 ~~factors, as determined by the department. Nothing in this section~~  
29 ~~reduces the responsibility of a city or county to identify, by income~~  
30 ~~category, the total number of sites for residential development as~~  
31 ~~required by this article.~~

32 ~~(c) Sites that contain permanent housing units located on a~~  
33 ~~military base undergoing closure or conversion as a result of action~~  
34 ~~pursuant to the Defense Authorization Amendments and Base~~  
35 ~~Closure and Realignment Act (Public Law 100-526), the Defense~~  
36 ~~Base Closure and Realignment Act of 1990 (Public Law 101-510),~~  
37 ~~or any subsequent act requiring the closure or conversion of a~~  
38 ~~military base may be identified as an adequate site if the housing~~  
39 ~~element demonstrates that the housing units will be available for~~  
40 ~~occupancy by households within the planning period of the~~

1 element. No sites containing housing units scheduled or planned  
2 for demolition or conversion to nonresidential uses shall qualify  
3 as an adequate site.

4 Any city, city and county, or county using this subdivision shall  
5 address the progress in meeting this section in the reports provided  
6 pursuant to paragraph (1) of subdivision (b) of Section 65400.

7 (d) (1) The Department of Housing and Community  
8 Development may allow a city or county to substitute the provision  
9 of units for up to 25 percent of the community's obligation to  
10 identify adequate sites for any income category in its housing  
11 element pursuant to paragraph (1) of subdivision (c) of Section  
12 65583 where the community includes in its housing element a  
13 program committing the local government to provide units in that  
14 income category within the city or county that will be made  
15 available through the provision of committed assistance during  
16 the planning period covered by the element to low- and very low  
17 income households at affordable housing costs or affordable rents,  
18 as defined in Sections 50052.5 and 50053 of the Health and Safety  
19 Code, and that meet the requirements of paragraph (2). Except as  
20 otherwise provided in this subdivision, the community may  
21 substitute one dwelling unit for one dwelling unit site in the  
22 applicable income category. The program shall do all of the  
23 following:

24 (A) Identify the specific, existing sources of committed  
25 assistance and dedicate a specific portion of the funds from those  
26 sources to the provision of housing pursuant to this subdivision.

27 (B) Indicate the number of units that will be provided to both  
28 low- and very low income households and demonstrate that the  
29 amount of dedicated funds is sufficient to develop the units at  
30 affordable housing costs or affordable rents.

31 (C) Demonstrate that the units meet the requirements of  
32 paragraph (2).

33 (2) Only units that comply with subparagraph (A), (B), or (C)  
34 qualify for inclusion in the housing element program described in  
35 paragraph (1), as follows:

36 (A) Units that are to be substantially rehabilitated with  
37 committed assistance from the city or county and constitute a net  
38 increase in the community's stock of housing affordable to low-  
39 and very low income households. For purposes of this

1 subparagraph, a unit is not eligible to be “substantially  
2 rehabilitated” unless all of the following requirements are met:

3 (i) ~~At the time the unit is identified for substantial rehabilitation;~~  
4 ~~(I) the local government has determined that the unit is at imminent~~  
5 ~~risk of loss to the housing stock, (II) the local government has~~  
6 ~~committed to provide relocation assistance pursuant to Chapter 16~~  
7 ~~(commencing with Section 7260) of Division 7 of Title 1 to any~~  
8 ~~occupants temporarily or permanently displaced by the~~  
9 ~~rehabilitation or code enforcement activity, or the relocation is~~  
10 ~~otherwise provided prior to displacement either as a condition of~~  
11 ~~receivership, or provided by the property owner or the local~~  
12 ~~government pursuant to Article 2.5 (commencing with Section~~  
13 ~~17975) of Chapter 5 of Part 1.5 of Division 13 of the Health and~~  
14 ~~Safety Code, or as otherwise provided by local ordinance; provided~~  
15 ~~the assistance includes not less than the equivalent of four months’~~  
16 ~~rent and moving expenses and comparable replacement housing~~  
17 ~~consistent with the moving expenses and comparable replacement~~  
18 ~~housing required pursuant to Section 7260, (III) the local~~  
19 ~~government requires that any displaced occupants will have the~~  
20 ~~right to reoccupy the rehabilitated units, and (IV) the unit has been~~  
21 ~~found by the local government or a court to be unfit for human~~  
22 ~~habitation due to the existence of at least four violations of the~~  
23 ~~conditions listed in subdivisions (a) to (g), inclusive, of Section~~  
24 ~~17995.3 of the Health and Safety Code.~~

25 (ii) ~~The rehabilitated unit will have long-term affordability~~  
26 ~~covenants and restrictions that require the unit to be available to;~~  
27 ~~and occupied by, persons or families of low- or very low income~~  
28 ~~at affordable housing costs for at least 20 years or the time period~~  
29 ~~required by any applicable federal or state law or regulation.~~

30 (iii) ~~Prior to initial occupancy after rehabilitation, the local code~~  
31 ~~enforcement agency shall issue a certificate of occupancy indicating~~  
32 ~~compliance with all applicable state and local building code and~~  
33 ~~health and safety code requirements.~~

34 (B) ~~Units that are located in a multifamily rental housing~~  
35 ~~complex of four or more units, are converted with committed~~  
36 ~~assistance from the city or county from nonaffordable to affordable~~  
37 ~~by acquisition of the unit or the purchase of affordability covenants~~  
38 ~~and restrictions for the unit, are not acquired by eminent domain;~~  
39 ~~and constitute a net increase in the community’s stock of housing~~  
40 ~~affordable to low- and very low income households. For purposes~~

1 of this subparagraph, a unit is not converted by acquisition or the  
2 purchase of affordability covenants unless all of the following  
3 occur:

4 (i) The unit is made available at a cost affordable to low- or  
5 very low income households.

6 (ii) At the time the unit is identified for acquisition, the unit is  
7 not available at an affordable housing cost to either of the  
8 following:

9 (I) Low-income households, if the unit will be made affordable  
10 to low-income households.

11 (II) Very low income households, if the unit will be made  
12 affordable to very low income households.

13 (iii) At the time the unit is identified for acquisition the unit is  
14 not occupied by low- or very low income households or if the  
15 acquired unit is occupied, the local government has committed to  
16 provide relocation assistance prior to displacement, if any, pursuant  
17 to Chapter 16 (commencing with Section 7260) of Division 7 of  
18 Title 1 to any occupants displaced by the conversion, or the  
19 relocation is otherwise provided prior to displacement; provided  
20 the assistance includes not less than the equivalent of four months'  
21 rent and moving expenses and comparable replacement housing  
22 consistent with the moving expenses and comparable replacement  
23 housing required pursuant to Section 7260.

24 (iv) The unit is in decent, safe, and sanitary condition at the  
25 time of occupancy.

26 (v) The unit has long-term affordability covenants and  
27 restrictions that require the unit to be affordable to persons of low-  
28 or very low income for not less than 55 years.

29 (C) Units that will be preserved at affordable housing costs to  
30 persons or families of low- or very low incomes with committed  
31 assistance from the city or county by acquisition of the unit or the  
32 purchase of affordability covenants for the unit. For purposes of  
33 this subparagraph, a unit shall not be deemed preserved unless all  
34 of the following occur:

35 (i) The unit has long-term affordability covenants and  
36 restrictions that require the unit to be affordable to and reserved  
37 for occupancy by persons of the same or lower income group as  
38 the current occupants for a period of at least 40 years.

39 (ii) The unit is within an "assisted housing development," as  
40 defined in paragraph (3) of subdivision (a) of Section 65863.10.

1     ~~(iii) The city or county finds, after a public hearing, that the unit~~  
2 ~~is eligible, and is reasonably expected, to change from housing~~  
3 ~~affordable to low- and very low income households to any other~~  
4 ~~use during the next five years due to termination of subsidy~~  
5 ~~contracts, mortgage prepayment, or expiration of restrictions on~~  
6 ~~use.~~

7     ~~(iv) The unit is in decent, safe, and sanitary condition at the~~  
8 ~~time of occupancy.~~

9     ~~(v) At the time the unit is identified for preservation it is~~  
10 ~~available at affordable cost to persons or families of low- or very~~  
11 ~~low income.~~

12     ~~(3) This subdivision does not apply to any city or county that,~~  
13 ~~during the current or immediately prior planning period, as defined~~  
14 ~~by Section 65588, has not met any of its share of the regional need~~  
15 ~~for affordable housing, as defined in Section 65584, for low- and~~  
16 ~~very low income households. A city or county shall document for~~  
17 ~~any housing unit that a building permit has been issued and all~~  
18 ~~development and permit fees have been paid or the unit is eligible~~  
19 ~~to be lawfully occupied.~~

20     ~~(4) For purposes of this subdivision, “committed assistance”~~  
21 ~~means that the city or county enters into a legally enforceable~~  
22 ~~agreement during the first five years of the housing element~~  
23 ~~planning period that obligates sufficient available funds to provide~~  
24 ~~the assistance necessary to make the identified units affordable~~  
25 ~~and that requires that the units be made available for occupancy~~  
26 ~~within two years of the execution of the agreement. “Committed~~  
27 ~~assistance” does not include tenant-based rental assistance.~~

28     ~~(5) For purposes of this subdivision, “net increase” includes~~  
29 ~~only housing units provided committed assistance pursuant to~~  
30 ~~subparagraph (A) or (B) of paragraph (2) in the current planning~~  
31 ~~period, as defined in Section 65588, that were not provided~~  
32 ~~committed assistance in the immediately prior planning period.~~

33     ~~(6) For purposes of this subdivision, “the time the unit is~~  
34 ~~identified” means the earliest time when any city or county agent,~~  
35 ~~acting on behalf of a public entity, has proposed orally or in writing~~  
36 ~~to the property owner, that the unit be considered for substantial~~  
37 ~~rehabilitation, acquisition, or preservation.~~

38     ~~(7) On July 1 of the sixth year of the planning period, as defined~~  
39 ~~by Section 65588, in the report required pursuant to Section 65400,~~  
40 ~~each city or county that has included in its housing element a~~

1 program to provide units pursuant to subparagraph (A), (B), or (C)  
2 of paragraph (2) shall report in writing to the legislative body, and  
3 to the department within 30 days of making its report to the  
4 legislative body, on its progress in providing units pursuant to this  
5 subdivision. The report shall identify the specific units for which  
6 committed assistance has been provided or that have been made  
7 available to low- and very low income households, and it shall  
8 adequately document how each unit complies with this subdivision.  
9 If, by July 1 of the sixth year of the planning period, the city or  
10 county has not entered into an enforceable agreement of committed  
11 assistance for all units specified in the programs adopted pursuant  
12 to subparagraph (A), (B), or (C) of paragraph (2), the city or county  
13 shall, not later than July 1 of the seventh year of the planning  
14 period, adopt an amended housing element in accordance with  
15 Section 65585, identifying additional adequate sites pursuant to  
16 paragraph (1) of subdivision (c) of Section 65583 sufficient to  
17 accommodate the number of units for which committed assistance  
18 was not provided. If a city or county does not amend its housing  
19 element to identify adequate sites to address any shortfall, or fails  
20 to complete the rehabilitation, acquisition, purchase of affordability  
21 covenants, or the preservation of any housing unit within two years  
22 after committed assistance was provided to that unit, it shall be  
23 prohibited from identifying units pursuant to subparagraph (A),  
24 (B), or (C) of paragraph (2) in the housing element that it adopts  
25 for the next planning period, as defined in Section 65588, above  
26 the number of units actually provided or preserved due to  
27 committed assistance.